

EPA's Privilege Log (Mar. 26 , 2020)

The EPA asserts the privileges as noted for the following documents, and for all drafts, iterations, and copies of these documents:

1. "Draft Redwood City Salt Ponds JD" (2016)

Origin: Brett Moffatt, EPA Region 9 Office of Regional Counsel
Recipients: Simma Kupchan, EPA Office of General Counsel
Date: Nov. 21, 2016 (also distributed among staff in the EPA Region 9 Water Division, including Robert Leidy, Jennifer Siu, Jason Brush, Sam Ziegler, Tomas Torres, and Alexis Strauss; the Region 9 Office of Regional Counsel, including Richard Campbell, Laurie Kermish, Jessica Kao, Sylvia Quast; Avi Garbow, Carla Veney, Steven Neugeboren, Carrie Wehling, and Karyn Wendelowski, EPA Office of General Counsel; and Stan Meiburg and Derek Threet, EPA Office of Water)
Subject Matter: The CWA jurisdictional status of the 1,365 contiguous acres comprising the Redwood City Salt Plant site in Redwood City, San Mateo County, California (Redwood City site)
Privileges: Attorney-Client Communication; Attorney Work Product; Deliberative Process

2. "Redwood City Talking Points"

Origin: David Fotouhi, EPA Office of General Counsel
Recipients: Ryan Jackson and Michael Molina, EPA Office of the Administrator; Troy Lyons, EPA Office of Congressional and Intergovernmental Affairs.
Date: January 30, 2019 (forwarded to the EPA Administrator on Feb. 1, 2019); (attached to subsequent emails to recipients including Ryan Jackson, EPA Office of the Administrator; Lee Forsgren, Anna Wildeman, and Owen McDonough, EPA Office of Water)
Subject Matter: The CWA jurisdictional status of the Redwood City site, in preparation for discussion with members of Congress.
Privileges: Attorney-Client Communication; Attorney Work Product; Deliberative Process

3. "Briefing: Redwood City CWA Special Case Jurisdictional Determination, December 20, 2018-3:45 p.m.-Administrator's Office"

Origin: David Fotouhi, EPA Office of General Counsel
Recipient: EPA Administrator
Date: December 20, 2018 (attached to later emails to recipients including Ryan Jackson, Hayly Humphreys, Natasha Eby, Michael Molina, EPA Office of the Administrator; Lee Forsgren, Anna Wildeman, and Owen McDonough, EPA Office of Water; Matt Leopold and Monique Patrick, EPA Office of General Counsel)
Subject Matter: The CWA jurisdictional status of the Redwood City site
Privileges: Attorney-Client Communication; Attorney Work Product; Deliberative Process

4. "Draft Redwood City Salt Pond JD" (2018)

Origin: David Fotouhi, EPA Office of General Counsel

Recipient: Matthew Leopold, EPA Office of Water

Date: Feb. 5, 2019 (attached to subsequent emails to recipients including Ryan Jackson, Office of the EPA Administrator; Lee Forsgren, Anna Wildeman, and Owen McDonough, EPA Office of Water)

Subject Matter: EPA's proposed determination of the CWA jurisdictional status of the Redwood City site

Privileges: Attorney-Client Communication; Attorney Work Product; Deliberative Process

5. "Draft Redwood City Salt Pond JD transmittal letter from the EPA Administrator to R.D. James, Assistant Secretary of the Army for Civil Works"

Origin: David Fotouhi, EPA Office of General Counsel

Recipient: Matthew Leopold, EPA Office of Water

Date: Feb. 5, 2019 (attached to subsequent emails to recipients including Ryan Jackson, Office of the EPA Administrator; Lee Forsgren, Anna Wildeman, and Owen McDonough, EPA Office of Water)

Subject Matter: EPA's proposed determination of the CWA jurisdictional status of the Redwood City site

Privileges: Deliberative Process

6. "Working Draft JD (OGC December 2018)"

Origin: Simma Kupchan, EPA Office of General Counsel

Recipients: Sylvia Quast and Brett Moffatt, EPA Region 9 Office of Regional Counsel; Steven Neugeboren and Carrie Wehling, EPA Office of General Counsel

Date: December 7, 2018 (attached to subsequent emails to recipients including Donna Downing, EPA Office of Water; and Karyn Wendelowski and Tasheka Ruggs, EPA Office of General Counsel; Alexis Strauss, Acting Regional Administrator, EPA Region 9; and Robert Leidy, EPA Region 9 Water Division)

Subject Matter: The CWA jurisdictional status of the Redwood City site

Privileges: Attorney-Client Communication; Attorney Work Product; Deliberative Process

7. "Options on Redwood City 8.29.18 (R9 comment)"

Origin: Simma Kupchan, EPA Office of General Counsel
Recipients: Sylvia Quast and Brett Moffatt, EPA Region 9 Office of Regional Counsel; Steven Neugeboren and Carrie Wehling, EPA Office of General Counsel; Donna Downing, EPA Office of Water
Date: Aug. 29, 2018 (attached to subsequent emails to Matthew Leopold and David Fotouhi, EPA Office of General Counsel; Richard Campbell and Laurie Kermish, EPA Region 9 Office of Regional Counsel; and Robert Leidy and Sam Ziegler, EPA Region 9 Water Division)
Subject Matter: The CWA jurisdictional status of the Redwood City site
Privileges: Attorney-Client Communication; Attorney Work Product; Deliberative Process

8. "Options for Redwood City Saltworks Jurisdictional Determination Rationales"

Origin: Simma Kupchan, EPA Office of General Counsel
Recipients: Sylvia Quast, Laurie Kermish and Brett Moffatt, EPA Region 9 Office of Regional Counsel; Robert Leidy, EPA Region 9 Water Division; Steven Neugeboren, Carrie Wehling, and Karyn Wendelowski, EPA Office of General Counsel; Michael McDavit, Donna Downing, and Rose Kwok, EPA Office of Water
Date: Aug. 16, 2018
Subject Matter: The CWA jurisdictional status of the Redwood City site
Privileges: Attorney-Client Communication; Attorney Work Product; Deliberative Process

9. "Legal Issues in Redwood City Saltworks Draft AJD Memorandum"

Origin: Simma Kupchan, EPA Office of General Counsel
Recipients: David Fotouhi and Steven Neugeboren, EPA Office of General Counsel
Date: August 8, 2019 (attached to subsequent emails to Carrie Wehling, EPA Office of General Counsel; and Brett Moffatt, EPA Region 9 Office of Regional Counsel)
Subject Matter: The CWA jurisdictional status of the Redwood City site
Privileges: Attorney-Client Communication; Attorney Work Product; Deliberative Process

10. "Re: Very Rough Draft of DMB/Cargill JD Rebuttal," Email from Hugh Barroll, EPA Region 9 Office of Regional Counsel, to Merry Goodenough and Jack Kerns, Army Corps of Engineers, San Francisco District, and Richard Campbell, EPA Region 9 Office of Regional Counsel, Jan. 2, 2013, with attachment "Draft Saltworks Rebuttal Comments Jan 1 2013 v.3.docx."

Origin: Laurie Kermish, EPA Region 9 Office of Regional Counsel
Recipient: Simma Kupchan, EPA Office of General Counsel
Date: August 7, 2018 (attached to subsequent emails to Karyn Wendelowski and Steven Neugeboren, EPA Office of General Counsel; and Brett Moffatt, EPA Region 9 Office of Regional Counsel)
Subject Matter: The CWA jurisdictional status of the Redwood City site
Privileges: Attorney Work Product; Deliberative Process

11. "Cargill Jurisdictional Determination," from Hugh Carroll, EPA Region 9 ORC, Memorandum to File,

dated December 31, 2012.

Origin: Laurie Kermish, EPA Region 9 Office of Regional Counsel

Recipient: Simma Kupchan, EPA Office of General Counsel

Date: August 7, 2018 (attached to subsequent emails to Karyn Wendelowski and Steven Neugeboren, EPA Office of General Counsel; Richard Campbell, Brett Moffatt, Jessica Kao, and Laurie Kermish, EPA Region 9 Office of Regional Counsel; and Robert Leidy, EPA Region 9 Water Division)

Subject Matter: The CWA jurisdictional status of the Redwood City site

Privileges: Attorney Work Product; Deliberative Process